

**Notice of Allowability**

Application No.

09/636,289

Examiner

David T. Fox

Applicant(s)

LANDSCHUTZE, VOLKER

Art Unit

1638

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 03 January 2005.
2. ☒ The allowed claim(s) is/are 1, 2, 7-12, 15, 19, 22-24, 29, 31 and 33-37 renumbered as 1-20.
3. ☒ The drawings filed on 16 August 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |                                                                                                                     |                                                                                       |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)                                                    | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|                                                                                                                     | 9. <input type="checkbox"/> Other _____                                               |

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

IN THE CLAIMS:

Claims 1-2, 7-8, 10, 34 and 36 are amended as follows:

In claims 1-2, 8, 10, 34 and 36, in each occurrence of the recitation of "between about 95% and 100%", the word "about" was deleted.

In claim 1, line 7, the following phrase was inserted between "molecule" and "selected":

---which comprises DNA molecules---

---Claim 7 (Currently Amended). The transgenic potato plant cell as claimed in claims 1 or 2, which synthesizes a modified starch having an amylopectin content of at least 90% and having an increased phosphate content in comparison to starch from plant cells of corresponding potato plants of the waxy phenotype [having an increased phosphate content].---

In claim 8, line 1, "a" before "production" was replaced with ---the---

In claim 8, line 6, "is" was replaced with the following phrase:

---comprises DNA molecules---

In claim 10, line 6, "molecules are" was replaced with the following phrase:

---molecule comprises DNA molecules---

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In claim 10, part (a), subparts (iii) and (iv), line 3, "lead" was replaced with ---  
leads---

In claim 36, line 4, "molecule" was replaced with ---molecules---

In claim 36, line 5, ---a--- was inserted before the second recitation of "decrease".

Authorization for this examiner's amendment was given in a telephone interview  
with Jessica L. Parezo on 16 March 2005.

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to David T. Fox whose telephone number is 571-272-0795.  
The examiner can normally be reached on Monday through Friday from 10:30AM to  
7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Amy J. Nelson, Ph.D., can be reached on 571-272-0804. The fax phone  
number for the organization where this application or proceeding is assigned is 571-  
273-8300.

Information regarding the status of an application may be obtained from the  
Patent Application Information Retrieval (PAIR) system. Status information for  
published applications may be obtained from either Private PAIR or Public PAIR.  
Status information for unpublished applications is available through Private PAIR only.  
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should  
you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).

March 16, 2005

DAVID T. FOX  
PRIMARY EXAMINER  
GROUP 180-1638

